

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	05-00029-02/04-CR-W-HFS
CARLOS BRANDON,)	
DAYRON JOHNSON, and)	
WILLIAM CARTER,)	
)	
Defendants.)	

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

I. BACKGROUND

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on October 25, 2006. Defendant Brandon appeared in person and with appointed counsel Alex McCauley. Defendant Johnson appeared in person and with appointed counsel Susan Dill. Defendant Carter appeared in person and with appointed counsel Melanie Morgan. The United States of America appeared by Assistant United States Attorneys Gregg Coonrod and Amy Marcus.

On August 9, 2006, a Second Superseding Indictment was returned charging Defendant Brandon with one count of conspiracy to distribute and possession with the intent to distribute cocaine base, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), (b)(1)(C) and 846; one count of aiding and abetting possession with the intent to distribute cocaine base, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A) and 18 U.S.C. § 2; one count of aiding and abetting possession with the intent to distribute cocaine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C) and 18 U.S.C. § 2; one

count of aiding and abetting the possession of a firearm during a drug trafficking crime, in violation of 18 U.S.C. §§ 924(c)(1)(A) and (c)(1)(A)(i); one count of aiding and abetting possession with the intent to distribute cocaine base, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B) and 18 U.S.C. § 2; being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924 (a)(2); one count of possessing a firearm during a drug trafficking crime, in violation of 18 U.S.C. §§ 922(c)(1)(A) and 924(c)(1)(A)(i); and criminal forfeiture pursuant to 21 U.S.C. § 853.

Defendant Johnson was charged with one count of conspiracy to distribute and possession with the intent to distribute cocaine base, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), (b)(1)(C) and 846; two counts of aiding and abetting possession with the intent to distribute cocaine base, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A) and 18 U.S.C. § 2; one count of aiding and abetting possession with the intent to distribute cocaine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C) and 18 U.S.C. § 2; one count of aiding and abetting the possession of a firearm during a drug trafficking crime, in violation of 18 U.S.C. §§ 924(c)(1)(A) and (c)(1)(A)(i); one count of aiding and abetting possession with the intent to distribute cocaine base, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C) and 18 U.S.C. § 2; being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924 (a)(2); possession of a firearm during a drug trafficking crime, in violation of 18 U.S.C. §§ 924(c)(1)(A) and (c)(1)(A)(i); and criminal forfeiture pursuant to 21 U.S.C. § 853.

Defendant Carter was charged with one count of conspiracy to distribute and possession with the intent to distribute cocaine base, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), (b)(1)(C) and 846; one count of aiding and abetting possession with the intent to distribute cocaine base, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(B) and 18 U.S.C. § 2; being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924 (a)(2); one count of possession of a firearm

during a drug trafficking crime, in violation of 18 U.S.C. §§ 924(c)(1)(A) and (c)(1)(A)(i); and criminal forfeiture pursuant to 21 U.S.C. § 853. On October 11, 2006, the Court granted the government's motion to dismiss the felon in possession charge against Defendant (Doc. No. 184).

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Mr. Coonrod announced that he and Ms. Marcus will be the trial counsel for the government. The case agent to be seated at counsel table is Darla Harris, Kansas City Police Department.

Mr. McCauley announced that he will be the trial counsel for Defendant Brandon; Ms. Deb Snider will assist.

Ms. Dill announced that she will be the trial counsel for Defendant Johnson.

Ms. Morgan announced that she will be the trial counsel for Defendant Carter.

III. OUTSTANDING MOTIONS

There are no pending motions in this case.

IV. TRIAL WITNESSES

Mr. Coonrod announced that the government intends to call twenty-seven witnesses without stipulations or twenty-three witnesses with stipulations during the trial.

Mr. McCauley announced that Defendant Brandon does not intend to call any witnesses during the trial. Defendant Brandon may testify.

Ms. Dill announced that Defendant Johnson does not intend to call any witnesses during the trial. Defendant Johnson will not testify.

Ms. Morgan announced that Defendant Carter intends to call two witnesses during the trial. Defendant Carter may testify.

V. TRIAL EXHIBITS

Mr. Coonrod announced that the government will offer approximately one hundred and thirty exhibits in evidence during the trial.

Mr. McCauley announced that Defendant Brandon will offer approximately nine exhibits in evidence during the trial.

Ms. Dill announced that Defendant Johnson will offer approximately three exhibits in evidence during the trial.

Ms. Morgan announced that Defendant Carter will offer approximately seven exhibits in evidence during the trial.

VI. DEFENSES

Mr. McCauley announced that Defendant Brandon will rely on the defense of general denial.

Ms. Dill announced that Defendant Johnson will rely on the defense of general denial.

Ms. Morgan announced that Defendant Carter will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Counsel for all three defendants stated this case is definitely for trial.

VIII. STIPULATIONS

Stipulations are likely as to chain of custody, chemists' reports, and the firearms' nexus.

IX. TRIAL TIME

Counsel were in agreement that this case will take four to five days to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

Counsel for each party file and serve a list of exhibits he or she intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by Wednesday, October 25, 2006;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, November 1, 2006;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions by or before noon, Wednesday, November 1, 2006. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and, if available to counsel, 3 and 1/2 inch computer disk in a form compatible with WordPerfect 9.0, 10.0, or 11.0.

XI. UNUSUAL QUESTIONS OF LAW

There are no unusual questions of law. Defendant Brandon will likely file motions in limine regarding 404(b) evidence, his manslaughter conviction, two drug convictions and a weapon charge. Defendant Johnson will probably file motions in limine regarding 404(b) evidence and gang references. Defendant Carter plans to file motions in limine pertaining to gang references and homicide suspects.

XII. TRIAL SETTING

All counsel and the defendants were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on November 6, 2006. Defendant Brandon requires a hearing device.

/s/ Robert E. Larsen
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
October 25, 2006

cc: The Honorable Howard Sachs
Mr. Gregg Coonrod
Ms. Amy Marcus
Mr. Alex McCauley
Ms. Susan Dill
Ms. Melanie Morgan
Mr. Jeff Burkholder